

EXHIBIT “A”

CAUSE NO. _____

SCHERLY AMY AGUILAR NIETO

Plaintiff,

v.

EFT EXPRESS SA DE CV AND
CELESTINO RODRIGUEZ GARCIA*Defendants.*

IN THE DISTRICT COURT

____ JUDICIAL DISTRICT

OF WEBB COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION, RULE 193.7 NOTICE OF RELIANCE
AND RULE 609 REQUEST FOR NOTICE OF CRIMINAL CONVICTIONS**

TO THE HONORABLE JUDGE OF THE COURT:

NOW COMES SCHERLY AMY AGUILAR NIETO, Plaintiff in the above entitled cause, complaining of EFT EXPRESS SA DE CV and CELESTINO RODRIGUEZ GARCIA, Defendants, and for causes of action would respectfully show the Court the following:

I.**DISCOVERY CONTROL PLAN/NON-EXPEDITED ACTION**

1.1. The damages sustained by Plaintiff are ongoing and include both economic and non-economic elements. Plaintiff seeks to rely on the jury's valuation of the damages based on the evidence presented at trial. Nevertheless, Plaintiff must make a statement of the maximum amount of damages and, therefore, states that amount to be over \$250,000 but not more than \$1,000,000. Plaintiff reserves the right to amend these amounts if a jury awards an amount in excess of \$1,000,000.

1.2. Plaintiff requests a Level 3 discovery plan as provided by the Texas Rules of

Civil Procedure.

II. PARTIES

2.1. Plaintiff, SCHERLY AMY AGUILAR NIETO ("SCHERLY AMY AGUILAR"), is an individual residing in Webb County, Texas.

2.2. Defendant, EFT EXPRESS SA DE CV, is a foreign corporation organized and existing under the laws of Mexico. EFT EXPRESS SA DE CV does and solicits business in this jurisdiction for its trucking services in Laredo, Texas (USDOT # 2533105) , and through its website:

<https://www.facebook.com/EFT-Express-SA-de-CV-103027861133267/about>

[?ref=page_internal](#). EFT EXPRESS SA DE CV may be served with process by delivering a true and correct copy of the citation, along with a copy of the attached petition to their registered agent, Concepcion Martinez, at 3316 Okane St. Laredo Texas, 78043 or anywhere this Defendant may be found.

2.3. Defendant, CELESTINO RODRIGUEZ GARCIA, is an individual residing in Nuevo Laredo, Mexico and may be served with process at her primary residence at 424 Blvd Rosendo Caballero, Nuevo Laredo, Mexico 88177 or anywhere this Defendant may be found.

III. JURISDICTION AND VENUE

3.1. Venue is proper in Webb County, Texas pursuant to Texas Civil Practice & Remedies Code § 15.001 et seq. because all or a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in Webb County, Texas.

3.2. This court has jurisdiction over this case and the damages sought are within the jurisdictional limits of this court.

IV. FACTS

4.1. This is a suit for negligence arising from a motor vehicle collision. On October 25, 2019, CELESTINO RODRIGUEZ GARCIA, Defendant, negligently operated a motor vehicle and caused a collision with the Plaintiff, SCHERLY AMY AGUILAR. Specifically, Plaintiff SCHERLY AMY AGUILAR was operating a 2017 Black Ford Focus and was stopped at a light at the 14600 block of Archer Dr, in Laredo City, Webb County, Texas. At the same time, Defendant CELESTINO RODRIGUEZ GARCIA was operating a 2010 white International tractor trailer truck traveling on Archer Dr. when he failed to drive in a single lane and collided into Plaintiff's vehicle ("the Collision").

4.2. Officer Carlos Garcia of the Laredo Police Department responded to the scene of the collision, conducted an investigation and determined that Defendant CELESTINO RODRIGUEZ GARCIA caused the collision due to failing to drive in a single lane.

4.3. Upon information and belief, Defendant CELESTINO RODRIGUEZ GARCIA was in the course and scope of his employment with Defendant EFT EXPRESS SA DE CV at the time of the collision.

4.4. As a result of Defendants' negligence, Plaintiff sustained personal injuries requiring medical examination and treatment. Further, Plaintiff suffered physical impairment, disfigurement, loss of wages, loss of earning capacity, and pain and

mental anguish.

**V.
CAUSES OF ACTION**

5.1 Plaintiff asserts the following claims and causes of action against EFT EXPRESS SA DE CV and CELESTINO RODRIGUEZ GARCIA, Defendants:

**Plaintiff's Vicarious Liability Cause of Action
Against EFT Express SA DE CV**

5.2. The incident made the basis of this lawsuit resulted from the improper conduct of Defendant's, EFT EXPRESS SA DE CV's employee, agent or representative, Defendant, CELESTINO RODRIGUEZ GARCIA who, at all times material to this lawsuit, was an employee, agent or representative of Defendant and was acting within the course and scope of employment for Defendant's, EFT EXPRESS SA DE CV. Consequently, Defendant is vicariously liable to SCHERLY AMY AGUILAR, Plaintiff, for the negligent conduct of its employee, agent or representative under the theories of vicarious liability and respondeat superior.

**Plaintiff's Negligence Cause of Action
Against Celestino Rodriguez Garcia**

5.3. Defendant, Celestino Rodriguez Garcia , owed Plaintiff statutory and common law duties to exercise reasonable care and prudence in the operation of the vehicle on the public roadways. Defendant breached that duty by the following acts and or omissions, independently and or collectively:

- A. Failing to drive in a single lane;
- B. Turning when unsafe;

- C. Making an unsafe lane change;
- D. In failing to keep such lookout as a person of ordinary prudence would have kept under the same or similar circumstances;
- E. Due to faulty evasive action;
- F. In failing to apply the brakes in a timely manner to avoid the collision in question;
- G. In failing to apply the brakes to avoid the collision in question;
- H. In driving at a rate of speed that was greater than that which an ordinarily prudent person would have driven under the same or similar circumstances;
- I. In failing to turn, swerve, or otherwise maneuver the vehicle in order to avoid the collision in question;
- J. Due to driver's inattention; and
- K. In all things failing to act as a reasonable person using ordinary care in the same or similar circumstances.

5.4. As a result of Defendant's negligence, Plaintiff sustained personal injuries and damages for which Plaintiff hereby sues.

VI. DAMAGES

6.1. As a direct and proximate cause of the occurrence made the basis of this lawsuit, Plaintiff sustained damages and hereby sues to recover the following:

- A. Costs for reasonable and necessary medical care in the past and future;
- B. Physical pain and mental anguish in the past and future;
- C. Physical impairment in the past and future;
- D. Physical disfigurement in the past and future;
- E. Loss of wages in the past and future;
- F. Loss of earning capacity in the past and future; and

G. Property damage.

VII.
JURY DEMAND

7.1. Plaintiff demands a trial by jury and tenders the requisite fee.

VIII.
NOTICE OF RELIANCE

8.1. Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Plaintiff hereby gives notice of intent to utilize all documents and tangible items produced by any party through discovery, together with all deposition exhibits and documents obtained by written questions, in any pre-trial proceeding and/or trial.

IX.
REQUEST FOR NOTICE OF CRIMINAL CONVICTIONS

9.1. Pursuant to Rule 609 of the Texas Rules of Civil Evidence, request is hereby made for written notice of intent to use evidence of a conviction, if any, against any of the witnesses named by Plaintiff as persons with knowledge of relevant facts. Sufficient advance written notice of intent to use such evidence is requested to provide a fair opportunity to contest the use of such evidence. Said notice is requested not later than thirty (30) days before trial.

X.
DESIGNATED E-SERVICE EMAIL ADDRESS

10.1. The following is the undersigned attorney's designated e-service email address for all eserved documents and notices, filed and unfiled, pursuant to Tex. R. Civ. P. 21(f)(2) & 21a: eservice@mcfirm.com. This is the undersigned's only e-service

email address, and service through any other email address will be considered invalid.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays that EFT EXPRESS SA DE CV and CELESTINO RODRIGUEZ GARCIA, Defendants, be cited to answer and appear and that, upon a final hearing of the cause, judgment be entered for the Plaintiff for actual and special damages, together with pre- and post-judgment interest as allowed by law, costs of Court, and such other and further relief to which Plaintiff may be entitled at law or in equity.

Respectfully submitted,

MARTIN, CUKJATI & TOM, L.L.P.

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ATTORNEYS FOR PLAINTIFF

(2021-139)

CAUSE NO. 2021CVA001066D2

SCHERLY AMY AGUILAR NIETO	§	IN THE DISTRICT COURT
	§	
VS.	§	111 TH JUDICIAL DISTRICT
	§	
EFT EXPRESS SA DE CV and CELESTINO	§	
RODRIGUEZ GARCIA	§	WEBB COUNTY, TEXAS

DEFENDANTS' ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Defendants, EFT EXPRESS SA DE CV and CELESTINO RODRIGUEZ GARCIA, and hereby make and file this its Original Answer to Plaintiff's Original Petition, and in support hereof would show the Court as follows:

I.

GENERAL DENIAL

Defendants deny each and every, all and singular, the allegations in Plaintiff's Original Petition, and say that they are not true, in whole or in part, and demand strict proof thereof on the trial of this cause.

WHEREFORE, PREMISES CONSIDERED, Defendants, EFT EXPRESS SA DE CV and CELESTINO RODRIGUEZ GARCIA, respectfully pray that Plaintiff take nothing from these Defendants and that the Court enter a judgment dismissing all claims against these Defendants with prejudice and awarding all costs of court and expenses incurred herein, and for such other and further relief, at law and in equity, general or special, to which these Defendants might show themselves to be justly entitled to receive.

Respectfully submitted,

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Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing, Defendants' Original Answer, has been served on the 22nd day of July, 2021 to all attorneys of record electronic mail as follows:

Email: eservice@mcfirm.com
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/s/ Anthony B. James

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